

Exhibit 27

*State of California ex rel. Ven-A-Care of the Florida Keys, Inc. v.
Abbott Labs, Inc. et al., Civil Action No. 03-11226-PBS*

**Exhibit to the November 25, 2009 Declaration of Philip D. Robben
in Support of Defendants' Joint Motion for Partial Summary Judgment**

11/23/99 Prepared by Vic Walker

**DEPARTMENT OF HEALTH SERVICES
PROPOSALS TO REDUCE MEDI-CAL EXPENDITURES
FOR
PHARMACEUTICAL PRODUCTS**

Change Basis for Reimbursement of Drugs

Proposal:

Decrease the amount Medi-Cal is willing to pay for drugs to something that more closely approximates the pharmacists' actual acquisition cost

Description:

Medi-Cal currently reimburses pharmacy providers on the basis of the cost of the drug plus a dispensing fee. The current formula for calculating drug cost is the lowest of:

- Average Wholesale Price (AWP) minus 5%
- Direct Price for about 11 major manufacturers
- The State Maximum Allowable Ingredient Cost
- The Federal Upper Limit

This proposal changes the method by which pharmacy drug acquisition costs are reimbursed by replacing Average Wholesale Price minus 5% (AWP - 5%) and the Direct Price reimbursement elements in the formula with AWP minus X% or Wholesale Acquisition Cost (WAC) plus Y percent, whichever is lower, on a drug-by-drug basis. This would more closely approximate actual acquisition costs of drugs by pharmacies.

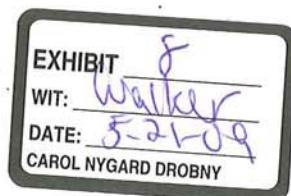
According to federal requirements, pharmacy reimbursement for the drug cost component is supposed to be based on Medi-Cal's best estimate of what pharmacies actually pay for the drugs. Our current reimbursement formula no longer reflects purchasing practices of pharmacies. AWP - 5% represents too high payment, whereas Direct Price represents too low payment (since pharmacies usually no longer buy drugs direct from manufacturers). The net effect is too high payment.

Historically, the current method of payment for drug costs was established in the early 1970s. The change from AWP to AWP - 5% occurred in the late 1980s.

Due to the unrealistic nature of AWPs in reflecting pharmacy purchasing practice, a growing number of Medicaid states are changing from an AWP minus X% method to a WAC plus X% method, or a combination of the two. Direct Price payment has virtually been abandoned by other states.

State	WAC Formula	AWP Formula
Alabama	WAC + 9.2%	
Colorado	WAC + 18%	or AWP - 10%
Florida	WAC + 7%	
Maryland	WAC + 10%	
Massachusetts	WAC + 10%	
Rhode Island	WAC + 5%	
Texas	WAC + 12%	or AWP - 10.49%

For the remaining Medicaid states that use an AWP minus X% method exclusively, most reimburse at AWP minus 10%.



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The federal Office of Inspector General conducted an audit to determine actual acquisition costs of drugs by pharmacies. The report indicated that Medi-Cal reimbursement far exceeded actual purchasing costs of pharmacies. The overall estimate of the extent that AWP exceeded pharmacy invoice prices was 17.5% for brand name drugs and 41.4% for generic drugs.

In other third party payor programs (i.e., private sector), reimbursement for drug cost is lower than Medi-Cal. Payment in such programs is usually in the range of AWP – 10% to 17%.

Legislation Required:

This change *can* be implemented through regulation, but the Department does not believe it can sustain the legal challenges to the regulations that will be brought to bear by its opponents. The most certain way to implement a new reimbursement schedule is through legislation.

Legislative History:

This identical proposal has been made almost every year since the early 1990s, but has been fought to a standstill in every instance by the effective lobbying efforts of the pharmacy provider organizations and beneficiary advocacy organizations. The pharmacy provider organizations oppose these changes because it would result in reduced reimbursement. The beneficiary advocacy organizations oppose them because they might result in reduced pharmacy provider participation.

Fiscal:

In a range of small, medium, and large – the savings of this proposal would be medium. The amount of savings depends on the level of reimbursement reduction needed.

Staff Impact:

Recommendation:

Propose. Medi-Cal's reimbursement for drugs has become so high in comparison to other third party payors changes truly need to be made.